

2410.02 Open Meetings Act

Issued January 1, 1994

SUBJECT: Open Meetings Act.

APPLICATION: Executive Branch Departments and Sub-units.

PURPOSE: To ensure consistent application of the requirements of the Act.

CONTACT AGENCY: Department of the Attorney General (AG) - Opinion and Public Information Unit.

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SUMMARY: The Open Meetings Act addresses the conduct of public meetings held by public bodies, which include Executive Branch Departments and Sub-units. This discussion focuses only on items most relevant to these agencies. For complete information, refer to the Act and any amendments. Copies of Attorney General opinions interpreting the Act are available from the Department of Attorney General upon request.

In general, all meetings of a public body are to be open to the public and held in a place available to the public. Decisions of the public body are to be made in open meetings and, with rare exceptions, all deliberations are to be made in open meeting. Under the Act, phone call conference meetings generally are not allowed.

APPLICABLE FORMS: None.

PROCEDURES:

- Public notice requirements:
 - A public body is required to provide public notice of regular and special meetings. This notice must contain the name, address and telephone number of the public body, and must be posted at its principal office. In addition, the public body may post the notice at other appropriate locations or use cable television.
 - A schedule of regular meetings must be posted within 10 days after the first meeting of the public body in any calendar or fiscal year. Schedule changes, providing information on the new schedule, must be posted within 3 days after a change is made. Notice of rescheduled regular meetings must be posted at least 18 hours prior to the meeting. Meetings which are recessed for more than 36 hours may be reconvened only after the 18 hour posted notice is provided.
 - Meetings may be held in residential dwellings only if no public building is available without cost to the public body, and if notice of the meeting is published in a display ad, in a newspaper of general circulation in the city or township where the meeting will be held, at least 2 days prior to the meeting. At the bottom of the ad, set off in a conspicuous manner, the following must be printed: "This meeting is open to all members of the public under Michigan's open meetings act."
 - A public body must send, by first class mail, a copy of any notice required to be posted under the act, to any person who requests it in writing and who pays a fee equal to the estimated cost of printing and mailing. A public body must provide a copy of the public notice to any newspaper published in the State, and any radio or television station located within the State, free of charge, if so requested in writing.

- Emergency meetings and closed sessions:
 - Emergency meetings to address severe and imminent threats to public health, safety or welfare may be held, without the notice requirements being met, if 2/3 of the public body decides that delay would be detrimental to efforts to lessen or respond to the threat.
 - Closed sessions may be held only under the following circumstances:
 - To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against, or to consider a periodic personnel evaluation of, a public officer, employee, staff member or individual agent if the named person requests a closed session (requires a majority vote of members elected or appointed and serving).
 - For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement, if either negotiating party requests a closed session (requires a majority vote of members elected or appointed and serving).
 - To consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained (requires a 2/3 roll call vote of members elected or appointed and serving)
 - To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting would have a detrimental financial effect on the litigating or settlement position of the public body (requires a 2/3 roll call vote of members elected or appointed and serving).
 - To review the specific contents of an application for employment or appointment to a public office, if the candidate requests that the application remain confidential. However, all interviews shall be held in an open meeting (requires a 2/3 roll call vote of members elected or appointed and serving).
 - To consider material exempt from discussion or disclosure by State or federal statute (requires a 2/3 roll call vote of members elected or appointed and serving).
- Minutes:
 - Minutes are required to be kept on both open and closed sessions. Minutes must contain, at a minimum: the date, time, place, members present, all roll call votes, any decisions made at an open session, and the purpose or purposes for which a closed session is held.
 - Corrections to minutes must be made not later than the next meeting. Corrected minutes must be available at the meeting immediately following that at which the corrections were made. Corrected minutes must show both the original entry and the correction.
 - Minutes must be available for public inspection at the address posted on the notice, and must be available for printing and copying at reasonable cost.
 - Proposed minutes are to be available within 8 business days after the meeting to which the minutes refer. Approved minutes are to be available within 5 business days after the meeting at which they are approved.
- Persons who may attend:
 - All persons are allowed to attend public meetings. They may tape-record, videotape, broadcast live on radio or telecast the proceedings on television.
 - To minimize the possibility of disruptions at meetings, public bodies may establish reasonable rules and regulations.
 - Persons may address meetings of the public body in accordance with rules which it has established and recorded.
- Legal actions:
 - Any person may challenge the validity of a decision of a public body made in violation of the Act.
 - Persons bringing such actions must begin action in circuit court within:

- 60 days after the approved minutes are made available, unless the issue involves contract approval, bids, assessments, procedures for issuing bonds or evidence of indebtedness or submission of borrowing proposals to voters.
- 30 days after the approved minutes are made available, if the issue involves contract approval, bids, assessments, procedures for issuing bonds or evidence of indebtedness or submission of borrowing proposals to voters.
- A public body may re-enact a disputed decision in conformity with this Act, if the allegation is that the action was taken in violation of the Act, without being deemed to have made any admission contrary to the interest of the public body. Any such decisions are effective from the date of re-enactment.
- Any person may begin an action in mandamus in the court of appeals, or for injunctive relief in circuit court. Successful complainants may receive court costs and attorney fees.
- Public officials found criminally guilty of intentionally violating the Act may be assessed a fine of not more than \$1,000. A second violation carries a fine of not more than \$2,000 and imprisonment for not more than 1 year, or both. In addition, public officials may be held liable personally in civil actions, for actual and exemplary damages of not more than \$500, plus court costs and attorney fees.
- Exclusions:
 - The Act does not apply to:
 - The Worker's Compensation Appeal Board, when debating the merits of a case.
 - The Employment Security Board of Review, when debating the merits of a case.
 - An arbitrator or arbitration panel appointed by the Employment Relations Commission, when debating the merits of a case.
 - The Michigan Public Service Commission, when debating the merits of a case.
 - A committee of a public body which adopts a non-policy making resolution of tribute or memorial that is not adopted at a meeting.
 - A meeting which is a social or chance gathering or conference, not designed to avoid the Act.

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